

Advisory Action

Application No.

08/945,705

Applicant(s)

YAMADA et al

Examiner

MEDLEY

Group Art Unit

1721

THE PERIOD FOR RESPONSE: [check only a) or b)]

- a) ☐ expires _____ months from the mailing date of the final rejection.
- b) ☐ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☒ Appellant's Brief is due two months from the date of the Notice of Appeal filed on 2/22/99 (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on 2/22/99 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

- ☒ The proposed amendment(s):

- ☒ will be entered upon filing of a Notice of Appeal and an Appeal Brief, for the specification and claim 1.
- ☒ will not be entered because: ^{for claim 2} the amended claim failed to provide the proper bracketing and
- ☒ they raise new issues that would require further consideration and/or search. (See note below).
- ☐ they raise the issue of new matter. (See note below).
- ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.

- ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: underlining at line 20 for "The" and line 24 for "contained". Applicants for the first time raise new issues about specified amounts for the specified ingredients. The cited prior art has been considered and made of record but is not being relied upon in an art rejection.

- ☐ Applicant's response has overcome the following rejection(s):

The 112 rejections of record.

- ☐ Newly proposed or amended claims _____ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.
- ☒ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because: The claims as drafted contained the open-ended comprising language and would not overcome the 103 rejection of record.
- ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
- ☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):
- Claims allowed: None
- Claims objected to: None
- Claims rejected: 1-5
- ☐ The proposed drawing correction filed on _____ ☐ has ☐ has not been approved by the Examiner.
- ☒ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). 11.
- ☐ Other

MARGARET MEDLEY
PRIMARY EXAMINER
GROUP 1400-1721

Margaret B. Medley